

## **REMARKS**

Claims 1–10 are pending in the application. In the Office action dated March 31, 2009, claims 1–10 were rejected. Responsive to the Office action, Applicant has amended claim 1.

In view of the amendments above, and the remarks below, Applicant respectfully requests reconsideration of the application.

### ***Request for Continued Examination***

In order to ensure that the above amendments are entered and considered, Applicant is concurrently submitting a Request for Continued Examination under 37 C.F.R. § 1.114.

### ***Amendments to the Claims***

Applicant takes this opportunity to amend claim 1 to more particularly define the claimed invention. In particular, claim 1 is amended to recite the moulding substance being applied as streaks of liquid. Support for the amendment is found in the present application at page 1, lines 14–15; and in Figure 2.

### ***Rejections under 35 USC § 102***

Claims 1–3 are rejected under 35 USC § 102(b) as being anticipated by Wetzler (U.S. Patent no. 3,099,518).

The Examiner contends that the Wetzler reference anticipates the subject matter of claim 1. Applicant respectfully disagrees.

Applicant notes that the Wetzler reference was previously considered during the international phase of the present application, and the International Preliminary

Examination Authority (IPEA) found that claims 1–10 as received on May 21, 2005 were nonetheless Novel, possessed an Inventive Step, and possessed Industrial applicability.

In particular, the International Preliminary Examination Report (IPER) prepared by the European Patent Office, acting as IPEA, indicated that with respect to the Wetzler reference:

"The subject-matter of claim 1 differs from this known process [of Wetzler] in that a liquide jointing substance of the same material as the pieces named in the preamble of calim 1 [sic] is used to join the pieces, by applying the liquide jointing substance in the contact area between the pieces only. The subject matter of claim 1 is therefore new." (emphasis in the original).

The IPER further indicated that the problem to be solved by the claimed invention was that of obtaining a mattress form pieces by gluing only, and that even in light of the teaching of the references, "no hint is given to the man skilled in the art ... to arrive at the subject-matter of claim 1" since the prior art references taught the use of springs. A copy of the IPER is provided for the convenience of the Examiner.

However, even without considering the opinion of the IPEA, Applicant respectfully suggests the Examiner is mischaracterizing the teaching of the reference. Instant claim 1 is directed to a process for manufacturing mattresses, where the mattresses include a bottom piece, longitudinal pieces, cross pieces, a top piece, and a core. The manufacturing process may be characterised in that a liquid moulding substance of the same material as the pieces of the mattress is used to join the pieces, by applying the liquid moulding substance in the contact area between the pieces only.

The Office action contends Wetzler discloses a mattress comprising longitudinal pieces and cross pieces, and refers to instant Figures 1 and 3 in formulating the rejection of claims 1–3. Applicant suggests this interpretation is incorrect as the sides 26 and 28, as depicted in Figures 2 and 3 of Wetzler, are not the sidepieces of the mattress, but rather are permanent sidewalls of the apparatus used to produce the mattress: "A pair of vertical sidewall members 26 and 28 serve to complete enclosure of the space between the lower belt 10 and the upper belt 18" (col. 3, lines 5–7) and "Sets of interconnected coil springs generally indicated at 40 are introduced between the urethane foam rubber strips 34 and 36 for travel therewith between the sidewalls or guides 26 and 28" (col. 3, lines 17–21).

Furthermore, no cross pieces are indicated in any of the Figures 1 or 3 of Wetzler. The square contour lines in Figure 2 do not denote any sort of cross piece, but merely indicate the borders of embedded frame 44. The Wetzler disclosure fails to reference any sort of cross piece, but is clear in describing that the individual mattresses may be cut from each other at the appropriate area between the spring assemblies (see col. 3, lines 61–71 of Wetzler).

The mattress in Wetzler is a sandwich construction and does not contain separate longitudinal and separate cross pieces as do the mattresses prepared by the claimed method of manufacture. The present application is especially directed towards the manufacture of mattresses containing a core, such as a core of springs, as mentioned on page 1 line 5 of the specification. In the mattresses of Wetzler the springs are integrally cast into the foam and the function of the springs are restricted and are not free to perform individually, which would have been an advantage for adapting to a

user lying on the mattress. In fact, the effects of the springs are greatly reduced by the foam, and each spring is influenced by the compression and depression of surrounding foam and neighboring springs due to the interconnecting foam.

In contrast, a mattress prepared by the present method will consist of a robust bolster made of foam pieces joined by a very thin layer of a liquid molding substance of the same material, which has proven efficient enough to provide the needed strength to hold the pieces together without tearing apart. As the mattress is formed by cut pieces containing a spring core, a high accuracy, an even outer smoothness, and an even spring loading of the mattress is obtained. Following the manufacture of Wetzler, however, will produce a mattress having a top surface that is uneven, as the expanding foam mixture 42 will expand unevenly in different areas, and thus also result in an uneven density after the application of the top strip 36.

Applicant suggests that the present method of manufacture may be clearly distinguished over the method of Wetzler. However, without acquiescing in the Examiner's rejection, and in the interest of facilitating the prosecution, Applicant hereby amends claim 1 to recite that the bottom piece, longitudinal pieces, cross pieces and top piece are of the same material, and that the liquid moulding substance is applied in streaks in the contact area between the pieces. Applicant respectfully suggests that the amendment clearly distinguishes the present method over that of Metzler, which features the embedding of the springs into a liquid substance.

In order to anticipate a claim under 35 U.S.C. § 102, a reference must disclose each and every element of the rejected claim. The Wetzler reference clearly fails to disclose every element of claim 1, for at least the reasons provided above. As claims 2

and 3 depend from claim 1, Applicant suggests claims 1–3 are not anticipated by the Wetzler reference, and respectfully requests the withdrawal of their rejection under 35 U.S.C. § 102.

***Rejections under 35 U.S.C. § 103***

Claims 4–10 are rejected under 35 USC § 103(a) as being unpatentable over Wetzler (U.S. Patent no. 3,099,518).

In order to establish the *prima facie* obviousness of a claim, the reference must disclose every element of that claim. As discussed above, Applicant respectfully suggests that the Wetzler reference fails to disclose each and every element of claim 1, as amended. As claims 4–10 ultimately depend from claim 1, claims 4–10 are not rendered *prima facie* obvious by Wetzler for at least the reasons provided above with respect to claim 1.

Additionally, Applicant notes that the method of claim 4 recites the following steps:

- (I) the bottom piece is laid out;
- (II) the moulding substance is applied to the longitudinal edges and cross edges on one surface side of the bottom piece;
- (III) the longitudinal pieces and cross pieces are lowered into the moulding substance and hardened;
- (IV) the moulding substance is applied on the same surface side of the bottom piece between the longitudinal pieces and cross pieces;
- (V) a core is lowered into the moulding substance and hardened; and

(VI) a top piece is provided with moulding substance and turned with the moulding substance facing the named upright longitudinal pieces and cross pieces and lowered onto the same and hardened.

As discussed above, Wetzler fails to disclose cross pieces in the manufacture of the disclosed mattresses, and so necessarily fails to disclose steps (II), (III), (IV), and (VI) of claim 4, as those steps specifically recite cross pieces.

With particular respect to claim 9, Applicant suggests that Wetzler fails to disclose any injecting in corner joints as a) Wetzler discloses no side pieces or cross pieces and hence there can be no corner joints in the mattresses of Wetzler, and b) as Wetzler discloses the injection of the molding substance into all the spaces of the frames 44 and 46 holding the springs, thus forming an integral mattress between the lower strip 34 and upper strip 36, (see col. 3, lines 45–54 of Wetzler) which structure has no corner joints that can be joined.

In addition, Applicant suggests that Wetzler fails to provide any suggestion or other motivation to produce a mattress according to the claimed method, that is, a mattress with longitudinal pieces and crosspieces which together with the top and bottom piece constitute a box construction into which a spring core may be deposited, and only fastened to the inner surfaces of the top and bottom pieces.

The Wetzler reference fails to establish the *prima facie* obviousness of claims 4–10, for at least the reasons that Wetzler fails to disclose every element of claims 4–10, and Wetzler fails to provide any suggestion that it would be advantageous to produce a mattress according to the claimed method. Applicant therefore respectfully requests the withdrawal of the rejection of claims 4–10 under 35 U.S.C. § 103.

Applicant believes that in view of the above amendments and remarks, the application is now in condition for allowance. If the Examiner has any questions, or if a telephone interview would in any way advance prosecution of the application, please contact the undersigned agent of record.

Respectfully submitted,

CERTIFICATE OF E-FILING

I hereby certify that this correspondence is being transmitted electronically via the United States Patent and Trademark Office's EFS-Web System on July 31, 2009.

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